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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,822	10/23/2003	Joseph A. D'Emidio	44073	5423

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

EXAMINER

HOEY, BETSEY MORRISON

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,822

Applicant(s)

D'EMIDIO ET AL.

Examiner

Betsey M Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9, 11-15 and 18 is/are rejected.
- 7) ☒ Claim(s) 6-8, 16, 17 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,308,482 to Mead. Referring to the figures, Mead discloses a portable water purifying device comprising a container formed by receptacle 30 and chamber 50 (see figure 2), which has an open top end when cover 12 is removed. The device comprises a plurality of filter elements comprised of a microbiocide resin 56 contained in approximately nine passages 22, stored within the device. Chamber 50 is patentably indistinguishable from a filter basket, because it contains filter elements and has a porous bottom made by retaining plate 58 having holes 62. The microbiocide 56 comprises an iodinated resin, and iodine is a water dispersible nutrient. The device of Mead comprises two vessels which can be used as drinking vessels, cup 10 and cover 12, which have identifying indicia because they are of different size and shape. The container of Mead has a lip for supporting chamber 50, shown best in figure 2 (not labeled).

The claims differ from Mead by reciting that the lid is capable of forming a substantially watertight seal. Mead does not use the specific term "watertight seal" when describing the cover 12 coupled to the rest of the device. However, since Mead's device is portable, one of ordinary skill in the art would have been motivated, at the time the present invention was made, to have made the cover 12 of Mead to be capable of

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forming a watertight seal when the device is closed, in order to prevent residual water from escaping the device when being transported, causing items in contact with the device to become undesirably wet.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11-13, 15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Mead (see above). Referring to the figures, Mead discloses purifying water using a portable water purifying device comprising a container formed by receptacle 30 and chamber 50 (see figure 2), which has an open top end when cover 12 is removed. Water is purified by removing chamber (or “filter basket”) 50, which contains a plurality of filter elements having microbicide resin 56 therein, and positioning chamber 50 as shown in figure 3. Unfiltered water is poured into the device where it contacts purifying media, and then filtered water is collected in cup 10. The volume of water treated is defined by the volume of the container, because the cup for collecting the water has a volume defined by the container so that it fits within the container when the device is not in use. The microbicide 56 comprises an iodinated resin, and iodine is a water dispersible nutrient. The device of Mead comprises two vessels which can be used as drinking vessels, cup 10 and cover 12. The container of Mead has a lip for supporting chamber 50, shown best in figure 2 (not labeled).

5. Claims 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mead as applied to claims 1 and 11 above, and further in view of U.S. Patent No. 5,846,418 to Thompson et al. Mead discloses the device and manner of using the device to treat water described above. The claims differ from Mead by reciting that filter elements are impregnated with calcium hypochlorite.

Thompson et al. disclose a point-of-use water treatment system which is analogous to the device of Mead because both inventions solve the problem of contaminated water not suitable for human consumption by providing means for water to be disinfected by microbiocide contained in filter media. The filter of Thompson et al. may comprise calcium hypochlorite, which effectively kills bacteria and viruses. Mead recognizes that his media may not kill all pathogenic organisms (see abstract). Therefore, one of ordinary skill in the art, at the time the present invention was made, would have been motivated to modify the device of Mead, by using calcium hypochlorite in the filter media, in view of Thompson et al., in order to effectively kill undesired bacteria and viruses within the water being treated.

6. Claims 6-8, 10, 16, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

Claim 6 would be allowed if rewritten in independent form, including all of the limitations of claims 1 and 4, because the prior art of record fails to teach, disclose, or

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fairly suggest a filter assembly comprising a container containing a plurality of drinking vessels, wherein each vessel has a different color indicia, in combination with all of the other limitations of claim 1.

Claims 7, 8, 16 and 17 would be allowed if rewritten in independent form, including all of the limitations of claim 1 or 11, because the prior art of record fails to teach, disclose, or fairly suggest a filter assembly, or method for producing filtered water using a provided assembly, comprising filter elements enclosed within a reclosable package contained within a container, in combination with all of the other limitations of claim 1 or 11.

Claims 10 and 19 would be allowed if rewritten in independent form, including all of the limitations of claims 1 and 9 or claims 11 and 18, because the prior art of record fails to teach, disclose, or fairly suggest a filter assembly, or method for producing filtered water using a provided assembly, comprising a filter basket having a porous bottom wall, a side wall, and an outwardly extending flange, wherein the flange has a dimension to mate with an internal lip on a container, in combination with all of the other limitations of claims 1 and 9 or claims 11 and 18.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsey Hoey whose telephone number is **(571) 272-1158**. The examiner can normally be reached on Mondays, Tuesdays, and Thursdays. The examiner's supervisor, Mr. Duane Smith, may be reached at (571) 272-1166. Any inquiry of general nature may be directed to the Group receptionist at (571) 272-0987. The centralized fax number for the Group is (703) 872-9306. The examiner Rightfax number is (571) 273-1158.

Betsey M. Hoey
BETSEY MORRISON HOEY

PRIMARY EXAMINER

March 7, 2005